



NRC NEWS

U. S. NUCLEAR REGULATORY COMMISSION

Office of Public Affairs, Region I
475 Allendale Road, King of Prussia, Pa. 19406
Web Site: www.nrc.gov

No. I-03-036

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May 15, 2003

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NRC PROPOSES \$6,000 FINE FOR N.Y. FIRM FOR RADIOGRAPHY VIOLATION

The Nuclear Regulatory Commission has proposed a \$6,000 fine for an Ossining, N.Y.-based company for violating an agency requirement pertaining to the performance of radiography work. Specifically, NRC staff has determined that Testwell Laboratories, Inc., performed and/or allowed radiography to be performed on at least three occasions in Woodbridge, N.J., without the supervision of a certified radiographer, as required.

Testwell Laboratories' license to use radiography equipment was issued by New York State. Although New York is an "Agreement State," which means it can issue licenses for the use of nuclear materials within its borders, the violation occurred in New Jersey, which is a non-Agreement State. Therefore, those activities were subject to NRC jurisdiction.

NRC inspectors identified the violation during an inspection conducted between September 18 and November 21 of last year. A subsequent investigation by the NRC's Office of Investigations confirmed the violation had occurred. Several other violations were also identified, the most significant being a failure to file for reciprocity with the NRC. Through such a filing, a company informs the NRC of its intention to perform work in areas under the agency's jurisdiction.

Because the violation involving the lack of supervision by a certified radiographer has been found to be deliberate, a fine has been proposed to emphasize its significance. "Deliberate violations are a very serious concern because the NRC's regulatory program relies, in part, on the honesty and integrity of licensees and their employees," NRC Region I Administrator Hubert J. Miller wrote in a letter to Testwell Laboratories regarding the enforcement action. "As such, deliberate violations cannot be tolerated."

NRC staff discussed the violations with Testwell Laboratories representatives during a predecisional enforcement conference on April 10. At that conference, the company

acknowledged the violations had occurred but denied that any involved deliberate actions by its employees.

However, the violation involving the performance of radiography without supervision of a certified radiographer was determined to be deliberate based on several facts, including an admission by the individual who performed the radiography that he thought doing such work without the supervision of a certified radiographer would only constitute a minor infraction. This indicated that he understood the requirements at the time the violations took place. In addition, the individual clearly should have known the requirements since he had previously been a certified radiographer, spent more than 30 years in radiography activities, and was the director of radiography and radiation safety officer for the company.

Testwell will have 30 days to provide a written response to the NRC regarding the enforcement action.

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